

Appl. No. 09/825,609  
Amdt. dated September 30, 2003  
Reply to Office Action of June 30, 2003

## REMARKS

### **Status of the Claims**

Claims 1-3, 6, 9-14, and 18-20 are currently pending after entry of this amendment. Claims 1-3, 6-14, and 18-20 stand rejected. Claims 1, 12, and 19, have been amended and claims 7 and 8 have been cancelled. Entry and consideration of these claims is respectfully requested.

### **Support for Amendments**

No new matter is believed to have been added by these amendments.

Support for the amendment to claims 1, 12, and 19 can be found in original claims 7 and 8.

### **In the Drawings**

In response to the Examiner's assertion that a proper drawing correction or corrected drawings are required in reply to the Office Action, Applicants would like to point out that amended FIGS. 2 and 3 were submitted in the Response and Request for Reconsideration submitted March 25, 2003. Acknowledgement of this submission is respectfully requested.

### **In the Specification**

The Examiner objects to informalities in the first paragraph of the Summary. Applicants respectfully traverse. Applicants contend that an amendment to the Summary of the Invention is premature at this time. MPEP 1302.01 states that "when an application is apparently ready for allowance, it should be reviewed by the examiner to make certain that the whole application meets all formal and substantive requirements." If the claims are allowed, an amendment to the Summary may be necessary at that time (emphasis added).

Page 6, line 3 of the specification has been corrected to delete "W<sub>5</sub> and W<sub>5</sub>" as noted by Examiner.

Appl. No. 09/825,609  
Amdt. dated September 30, 2003  
Reply to Office Action of June 30, 2003

On page 14, the paragraph beginning on line 14 has been amended to clarify the structures that may optionally serve as the cover layers of the claimed invention. Support for this clarification can be found on page 8, lines 24-28 of the Specification. Applicants respectfully request the Examiner to withdraw the objection with regard to this paragraph.

### Rejections Under 35 U.S.C. § 102(b)

Claims 1-3, 6, 8-10, 12-14, and 18 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Osborn, III et al., U.S. Pat. No. 5,647,862 (hereinafter Osborn). Applicants submit that this rejection is overcome by the present amendments.

Independent claims 1 and 12 have been amended to recite an absorbent article including at least one delay layer having a surface area less than the surface area of the absorbent layer(s), and being positioned between the absorbent layer(s) and the garment-facing outer surface.

In contrast, Osborn does not teach or disclose each and every element of claimed invention. Osborn includes a sanitary napkin with means for directional fluid distribution positioned between the top sheet and the absorbent core. (Col. 4, lines 55-61). Osborn does not disclose a delay layer having a surface area less than the surface area of the absorbent layer(s), the delay layer being positioned between the absorbent layer(s) and the garment-facing outer surface of an article. Therefore, Applicants respectfully request this rejection to be withdrawn.

Claims 1-3, 6-7, 12-14, and 18 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Matsuda et al., U.S. Pat. No. 3,612,054 (hereinafter Matsuda). Applicants submit that this rejection is overcome by the present amendments.

Independent claims 1 and 12 have been amended to recite an absorbent article including a garment-facing outer surface or cover that includes an attachment portion adapted to removably attach the insert to an absorbent garment.

Therefore, Matsuda does not teach or disclose each and every element of the claimed invention. Matsuda teaches a sanitary napkin including barrier sheets. Matsuda does not disclose an absorbent article including a garment facing surface with

Appl. No. 09/825,609  
Amdt. dated September 30, 2003  
Reply to Office Action of June 30, 2003

an attachment portion adapted to removably attach the insert to an absorbent garment. Applicants respectfully request this rejection to be withdrawn.

Claims 1-3, 6-14, and 18 stand rejected under 35 U.S.C § 102(b) as being anticipated by Clark et al., U.S. Pat. No. 5,910,137 (hereinafter Clark). Applicants respectfully traverse this rejection. Clark discloses multiple individual sanitary napkins or absorbent articles that are removably adhered to one another.

The claims of the current application recite a garment-facing outer surface or cover layer that is at least partially fluid permeable. Clark does not teach or disclose, nor does the Examiner correlate, any structure in Clark that would be equivalent to the at least partially fluid permeable garment-facing surface of the present invention. Because Clark does not teach or disclose each and every element of the claimed invention, Applicants respectfully request this reject be withdrawn.

### **Rejections Under 35 U.S.C. § 103(a)**

Claims 19-20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Osborn, in view of Kimberly-Clark Corp., WO 95/06451 (hereinafter KC). The Examiner asserts that it would have been obvious to one of skill in the art to combine the sanitary napkin of Osborn with the undergarment of KC. Applicants submit that this rejection is overcome by the present amendments.

The combination of Osborn and KC, even if proper, would fail to provide all the elements of claim 19. As noted above, Osborn does not teach an absorbent article with at least one delay layer having a surface area less than the surface area of the absorbent layer(s) and being positioned between the absorbent layer(s) and the garment-facing outer surface. Likewise, KC does not teach or suggest, nor has the Examiner asserted that KC teaches or suggests, an absorbent article with at least one delay layer positioned between the absorbent layer(s) and the garment-facing outer surface, the delay layer(s) having a surface area less than the surface area of the absorbent layer(s).

Accordingly, a *prima facie* case of obviousness over Osborn in view of KC has not been presented, as the references do not teach or suggest each and every element

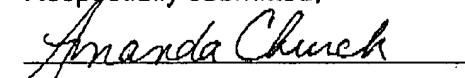
Appl. No. 09/825,609  
Amndt. dated September 30, 2003  
Reply to Office Action of June 30, 2003

of the claims. Claims 19 and 20 are not obvious under 35 U.S.C. § 103 over Osborn alone or in combination with KC, and Applicants respectfully request this rejection be withdrawn.

**CONCLUSION**

Applicants believe they have completely addressed all the objections and rejections raised by the Examiner. Applicants believe that all the claims are in condition to be allowed and respectfully request the same. If, for any reason, the Examiner feels that the above amendments and remarks do not put the claims in condition for allowance, the undersigned attorney can be reached at (312) 321-4787 to resolve any remaining issues.

Respectfully submitted,



Amanda M. Church  
Registration No. 52,469  
Attorney for Applicant

BRINKS HOFER GILSON & LIONE  
P.O. BOX 10395  
CHICAGO, ILLINOIS 60610  
(312) 321-4200